

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

OPTIS WIRELESS TECHNOLOGY, LLC,
OPTIS CELLULAR TECHNOLOGY, LLC,
UNWIRED PLANET, LLC, UNWIRED
PLANET INTERNATIONAL LIMITED,
AND PANOPTIS PATENT
MANAGEMENT, LLC,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Civil Action No. 2:19-cv-00066-JRG

NOTICE OF SUPPLEMENTAL AUTHORITY

Apple wishes to advise the Court about the Federal Circuit's decision in *Apple Inc. v. Wi-LAN Inc.*, Nos. 2020-2011, 2020-2094 (Fed. Cir. Feb. 4, 2022) (attached hereto). The Federal Circuit vacated a damages judgment based on the expert testimony of David Kennedy, on the grounds that his comparable-license testimony was untethered to the actual facts of the case because he failed to sufficiently account for the differences between the licensed patents and the hypothetical negotiation. Slip Op. at 15-21, 25-26. The Federal Circuit's reasoning squarely supports Apple's challenge to Mr. Kennedy's opinions in this case, including his improper reliance on the Qualcomm agreements. *See* Apple's Motion For A New Trial at 7-9 (ECF 699); Apple's Rule 50(b) Motion For Judgment As A Matter Of Law at 8-14 (ECF 700).

Dated: February 9, 2022

Respectfully submitted,

/s/ Melissa R. Smith

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CERTIFICATE OF SERVICE

I hereby certify that the counsel of record who are deemed to have consented to electronic service are being served today with a copy of the foregoing motion via the Court's CM/ECF system per Local Rule CV-5(a)(3).

Dated: February 9, 2022

/s/ Melissa R. Smith
Melissa R. Smith